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EXAMINER

DAYE, CHELCIE L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,371	Applicant(s) BECKSTROM ET AL.	
	Examiner CHELCIE DAYE	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed November 26, 2008.
2. Claims 1-20 are presented. No claim added and none cancelled.
3. Claims 1-20 are pending.
4. Applicant's arguments filed November 26, 2008, have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-2, 4-9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998.**

Regarding Claims 1 and 20, Fedorov discloses a method for improving transactions in a communication system, comprising:

monitoring an ongoing data session (column 5, lines 26-29, Fedorov) between first and second parties (column 7, lines 56-59, Fedorov)¹ in an established transaction in the communication system (column 10, lines 48-55, Fedorov); and

conferencing a third party into the transaction as an additional participant in the transaction in response to the monitoring of the data session between the first and second parties (column 2, lines 34-39 and column 8, lines 27-35, Fedorov). However, Fedorov is silent with respect to the steps being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer)². Fedorov and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

¹ Examiner Notes: The agent and the customer represent the first and second parties.

² Examiner Notes: Shaffer explicitly teaches the step of automatically monitoring and it is understood within the art that if the third party has the capability to automatically monitor the session then the third party also has the capability to automatically conference (i.e. engage).

Regarding Claim 2, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is at least one of a virtual party and an automated input (column 5, lines 37-50, Shaffer).

Regarding Claim 4, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is engaged into a background of the ongoing data session of at least one of the first and second parties in response to the automatic monitoring (column 7, lines 50-54, Fedorov)³. However, Fedorov is not as detailed with the engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 5, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is engaged into a foreground of the

ongoing data session (column 8, line 29, Fedorov). However, Federov is not as detailed with the engaging being performed automatically and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer) and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring (columns 7-8, lines 61-67 and 1-5, respectively, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 6, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)⁴.

³ Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

⁴ Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

Regarding Claim 7, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)⁵.

Regarding Claim 8, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov) and wherein measured changes in stress levels of one of the parties based upon a deviation from a preceding time period cause engagement of the third party (column 4, lines 44-63 and columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

Regarding Claim 9, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

⁵ Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Beck (US Patent No. 6,138,139) filed October 29, 1998.

Regarding Claim 3, the combination of Fedorov in view of Shaffer, disclose all the claimed subject matter as stated above. However, Federov and Shaffer are not as detailed with reviewing at least one of text messages and emails before they are sent. On the other hand, Beck discloses reviewing at least one of text messages and emails before they are sent (column 41, lines 35-39, Beck). Federov, Shaffer, and Beck are analogous art because they are from the same field of endeavor of a communication center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Beck's teachings into the Federov and Shaffer system. A skilled artisan would have been motivated to combine in order to provide a full multimedia threading of interactions from diverse paths to be seamlessly integrated. Thus, enriching the dialog by providing added meaning and overall efficiency.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further in view of Miloslavsky (US Patent No. 6,021,428) filed January 22, 1998.

Regarding Claim 10, the combination of Fedorov in view of Shaffer, disclose wherein detection of problematic phrases within the content engages the third party (column 5, lines 29-36, Shaffer). While Shaffer does disclose detecting problematic phrases of content, however, the combination of Fedorov in view of Shaffer, are not as detailed with respect to the problematic phrases being an automatic inspection of content of data messages, text messages, and emails. On the other hand, Miloslavsky discloses automatic inspection of content of data messages, text messages, and emails (column 36, lines 9-36, Miloslavsky). Federov, Shaffer, and Miloslavsky are analogous art because they are from the same field of endeavor of a telephone call-in-center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Miloslavsky's teachings into the Federov and Shaffer system. A skilled artisan would have been motivated to combine as suggested by Miloslavsky at columns 1-2, lines 58-67 and 1-2, respectively, in order to introduce the Internet together with advances in computer hardware and software to lead to a new multi-media telephone system, known as Internet protocol network telephony (IPNT). As a result, the use of the IPNT allows for the improved handling of more calls faster and the improvement of other services in every way.

9. Claims 11-12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998,

**in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, and further
in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000.**

Regarding Claim 11, Federov discloses an apparatus for improving transactions in a communication system, comprising:

means for monitoring an ongoing data session (column 5, lines 26-29, Fedorov) between first and second parties (column 7, lines 56-59, Fedorov) in an on-going transaction in the communication system (column 10, lines 48-55, Fedorov); and

means for engaging a third party into the on-going transaction as an additional participant in the transaction in response to the monitoring of the data session between the first and second parties (column 2, lines 34-39 and column 8, lines 27-35, Fedorov). However, Fedorov is silent with respect to the monitoring and engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). Fedorov and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency

of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed. Also, Federov and Shaffer are silent with respect to the data session including at least one of data messages and text messages. On the other hand, Eilbacher discloses data sessions including at least one of data messages and text messages (column 6, lines 2-4 and 28-31, Eilbacher). Federov, Shaffer, and Eilbacher are analogous art because they are from the same field of contact center communications. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Eilbacher's teachings into the Federov and Shaffer system. A skilled artisan would have been motivated to combine as a way of not limited the accessibility and functions of the system. As a result, broadening the possible communication mechanisms.

Regarding Claim 12, the combination of Federov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the data session is internet based (column 10, lines 48-53, Federov) and monitoring includes monitoring video input of the parties to the transaction (column 6, lines 2-4 and 42-57, Eilbacher) to assist in determining stress levels of the parties (column 11, lines 11-44, Eilbacher).

Regarding Claim 14, the combination of Federov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party is

engaged into a background of the ongoing data session of at least one of the first and second parties in response to the automatic monitoring (column 7, lines 50-54, Fedorov)⁶. However, Fedorov is not as detailed with the engaging being performed automatically. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 15, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party is engaged into a foreground of the ongoing data session (column 8, line 29, Fedorov). However, Fedorov is not as detailed with the engaging being performed automatically and to reduce stress levels of at least one of the first and second parties in response to the automatic monitoring. On the other hand, Shaffer discloses the step of automation (column 4, lines 17-27 and column 5, lines 36-65, Shaffer) and to reduce stress levels of at least one of the first and

⁶ Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating

second parties in response to the automatic monitoring (columns 7-8, lines 61-67 and 1-5, respectively, Shaffer). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official to join in, if needed.

Regarding Claim 16, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)⁷.

Regarding Claim 17, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)⁸.

in the background of the call.

⁷ Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

⁸ Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

Regarding Claim 18, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claim 19, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39 and column 6, lines 48-52, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text, and analyzing a physical stress level of at least one of the first and second parties.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998, further in view of Eilbacher (US Patent No. 6,724,887) filed January 24, 2000, and further in view of Elazar (US Patent No. 6,542,602) filed February 14, 2000.

Regarding Claim 13, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, disclose the apparatus wherein one of the parties in the transaction is a customer (column 7, lines 56-59, Fedorov). While Eilbacher

does in fact disclose the use of keywords by a customer (column 11, lines 26-50, Eilbacher). However, the combination of Fedorov in view of Shaffer, and further in view of Eilbacher, are not as detailed with detecting a keyword use by the customer indicating that the customer desires to deal with a supervisor. On the other hand, Elazar discloses detecting a keyword use by the customer indicating that the customer desires to deal with a supervisor (columns 10-11, lines 66-67 and 1-6; respectively, Elazar). Fedorov, Shaffer, Eilbacher, and Elazar are analogous art because they are from the same field of a monitoring system. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Elazar's teachings into the Fedorov, Shaffer, and Eilbacher system. A skilled artisan would have been motivated to combine in order to provide a more customer-based system, which recognizes issues upfront. Therefore, the combination of the references disclose automatically engaging engages the supervisor is response thereto column 4, lines 17-27 and column 5, lines 36-65, Shaffer)⁹.

Response to Arguments

⁹ Examiner Notes: Shaffer explicitly teaches the step of automatically monitoring and it is understood within the art that if the third party has the capability to automatically monitor the session then the third party also has the capability to automatically conference (i.e. engage).

Applicant argues, Federov does not teach automatic monitoring, does not concern data sessions and does not teach automatically conferencing or engaging the third parties in response to the automatic monitoring.

Examiner respectfully disagrees. To begin, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). As stated in previous office actions, Federov was relied upon for the teaching of monitoring and conferencing (i.e. engaging). However, the secondary reference, Shaffer, was relied upon for the disclosure of performing those steps automatically. Next, applicant's arguments that Federov does not concern data sessions are improper. In the broadest sense, a data session is any communication wherein data is being exchanged (either verbally, written, signed, etc.). Federov clearly teaches a call center with call monitoring capabilities between a customer and an agent (see col.5, lines 26-30 and col.7, lines 56-59). Federov also discusses the system implementing data sharing capabilities along with a data conferencing environment (see col.7, lines 7-21).

Applicant argues, Shaffer monitors only voice not data message sessions and further merely notifies the supervisor but does not automatically engage the supervisor into the transaction.

Examiner respectfully disagrees. To begin, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "data message sessions") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). In particular, the claimed language states "monitoring data sessions", which primary reference Federov was relied upon for disclosing. Next, while it is clear that Shaffer does teach the step of monitoring being performed automatically (see col.4, lines 22-27), it would be obvious to one of ordinary skill in the art at the time of the invention to also allow the conferencing (i.e. engaging) step to also be performed automatically as well, if for no other reason but for simplicity and system performance aspects. Therefore, it is understood that Federov's monitoring and conferencing in a third party due to the monitoring would be more time efficient to allow both steps to be performed automatically (especially when one of the steps are explicitly taught).

Applicant argues, Federov merely describes automatic monitoring of calls by a supervisor but does not disclose engaging into the background or

foreground, or with a party of an ongoing data session or doing so automatically in response to the automatic monitoring.

Examiner respectfully disagrees. Federov teaches “*a supervisor has the capability, with the appropriate software applications, of monitoring calls, talking to the agent...real time scripting to the agent while a call is in progress*” (see col.7, lines 50-54), wherein the “talking to the agent”, while the call is in progress clearly discloses the third party (i.e. supervisor) engaged into the background of an ongoing data session. This is especially true since the reference only says that the supervisor is talking to the agent (only) not both. Even further, Federov teaches the capabilities described make it possible “*for a supervisor to passively monitor calls at agent stations, to participate in the calls, to communicate with the agent transparent to the caller ...*” (see col.8, lines 26-33). Within the preceding excerpt, the supervisor communicating with the agent transparent to the caller further teaches that the third party is engaged within the background of an ongoing data session. Also, within that same excerpt is the possibility for the supervisor (i.e. third party) to participate in the calls (with both parties), thereby disclosing the engaging within the foreground. Lastly, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). In particular, the argument of doing the engaging automatically in response to the automatic monitoring has already been discussed in the prior response to arguments.

Applicant's arguments with respect to claims 3, 10, and 13 have been considered but are moot in view of the new ground(s) of rejection.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571)272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4146080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
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January 14, 2009

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161